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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,897	09/24/2003	Lisa Parrish	141649.00001 (old: 13103-	5985

25207 7590 01/27/2004

POWELL, GOLDSTEIN, FRAZER, & MURPHY LLP  
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191 PEACHTREE STREET, NE  
ATLANTA, GA 30303-1736

EXAMINER
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WILLIAMS, JAMILA O

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/670,897

Applicant(s)

PARRISH, LISA

Examiner

Jamila O Williams

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 9/24/03 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of strings, recited in claim 8 and the connecting of the strings to form a loop, as recited in claim 12 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,3 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Densko. Densko discloses a rod (figs 1 and 3) having a first and second end, a length of string (26) having a first and second end, the first end being associated with the first end of the rod; further comprising at least one end cap associated therewith (cap 24 in fig 3); further comprising a first end cap (24 in fig 3) and a second end cap (24 in fig 1), the second end cap having an aperture formed

therethrough (fig 1) whereby the first end of the string passes through the aperture; wherein both the first and second ends of the string are attached to the rod so that the string forms a loop (fig 1).

4. Claims 1,8,10 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Rodgers. Rodgers discloses a rod (7) having a first and second end, a length of string (8 or 9) having a first and second end, the first end being associated with the first end of the rod, wherein the string comprises a plurality of strings (8 and 9); further comprising a play object attachable to the second end of the string wherein the object is a ball (fig 2).

The recitations of the preamble (a pet toy..) in the aforementioned claims have not been given patentable weight because it has been held that a preamble is denied the effect of a limitation where the claim is drawn to a structure and the portion of the claim following the preamble is a self-contained description of the structure not depending for completeness upon the introductory clause. *Kropa v Robie*, 88 USPQ 478 (CCPA 1951).

5. Claims 1,2,6,9,10,11 are rejected under 35 U.S.C. 102(b) as being anticipated by Ament. Ament discloses a rod (1) having a first and second end, a length of string (3) having a first and second end, the first end being associated with the first end of the rod; further comprising at least one cap (10); wherein the second end of the rod terminates in a loop (15) to which the string can be attached; wherein the string further comprises a fastening means at the free end of the

string (fig 3); further comprising a play object attachable to the second end of the string; wherein the object is a ball (fig 3).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rodgers in view of Slade. Rodgers discloses all of the elements of the claims but for having a material incorporated into at least a portion of the string which can glow in the dark, as recited in claim 4. Slade discloses a toy having a string that is surfaced by a luminous material (23a). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the luminous material of Slade with the string or strings of Rodgers for the purpose of providing optical illusions during play in the dark.
8. Claim 5,7 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ament in view of Denesuk. Ament discloses all of the elements of the claims but for the microbiocidal or antimicrobial material associated with at least a portion of the string, as recited in claim 5 and the use of scents in the string, as recited in claim 13. Demesuk teaches the use of Microban in animal toys (rope based mastication articles) to decrease bacteria (column 18 first paragraph) and

the use of scents in the articles (column 5 lines 18-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the microbiocidal or antimicrobial material and scents of Denesuk with the string of Ament for the purpose of providing a more inviting toy for the animal. The examiner notes that Ament does not clearly disclose that the animal chews on the string but it is inherently capable of being chewed.

9. Regarding the limitations of claim 7, the examiner takes Official Notice that it is old and well known to use glue for connecting two items together. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to use glue to connect the string and rod together for the purpose of providing a more secure connection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. This is simply art of interest and was not used to reject any claims in this office action.

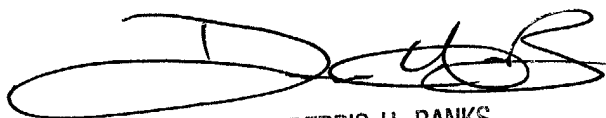
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamila O Williams whose telephone number is 703-305-3312. The examiner can normally be reached on 6:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

JW

A handwritten signature in black ink, appearing to read 'D. Banks', with a large, stylized loop at the end.

DERRIS H. BANKS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700